

JUDGE'S PROCEDURAL RULES AND POLICIES

Workers' Compensation Automation and Integration System (WCAIS) is the official repository for all documents related to a Dispute (matter pending) before a Workers' Compensation Judge. All documents, and briefs, that would have been submitted to a Workers' Compensation Judge by mail or in person prior to WCAIS should now be uploaded into WCAIS. If Social Security numbers appear on any such document, they should be completely redacted before the document is uploaded, unless otherwise specified below. All communications with the Judge, including but not limited to requests, should be submitted through WCAIS unless otherwise specified by the Judge.

HEARING PROCEDURES

1. What is the first event and what will occur?

The first hearing on a Claim or Reinstatement Petition is for a scheduling order only. The first hearing on Employer's petitions is also for scheduling but upload of supersedeas documents by Employer is expected as well. Claimant will not testify. All first hearings are slotted for ten minutes. Each hearing will have a specific time. All matters will be scheduled for mandatory mediation at the first listing.

a. List any documents required at the first event:

The moving party should upload to WCAIS the controlling Bureau document (or Judge's Decision) prior to the hearing. Claimant's counsel is to upload the Fee Agreement as C-1 prior to Claimant's testimony.

Any documents that are intended to be submitted into evidence should be uploaded as an exhibit.

2. Describe the format of your hearings (e.g., serial, one day – one trial).

I use serial hearings. The matter will be relisted for a hearing for submission of the moving party's evidence approximately 90 days following the first hearing. The final hearing will take place approximately 90 days following the second hearing. Claimant is expected to testify live at the final hearing in the case. The scheduling will be expedited with certain petitions. Penalty petitions are typically given thirty days for all documentary evidence and Utilization Review petitions are typically one ninety day relist for all evidence.

3. Are you willing to change the hearing format upon request?

No, unless extenuating circumstances necessitate.

4. What factors will you consider in deciding whether to conduct a hearing in-person?

Claimant's testimony at a final hearing will now be scheduled live, however, upon request to this Judge the hearing may be conducted virtually.

5. What factors will you consider in deciding whether to conduct a virtual hearing by audio only or by audio with video?

Video participation is preferred for all virtual hearings. If the hearing is for presentation of testimony, including Compromise and Release hearings, video participation of the deponent is required. If there are extenuating circumstances, I will consider allowing testimony via audio only upon request of the parties.

6. What procedure do you follow if a party fails to appear at a hearing?

Failure to appear with no reasonable excuse may lead to the dismissal of that party's petition or closing of the record without that party's evidence.

7. Do you have special procedures for psychological injury cases?

If the case is virtual, no. If the case is live, the courtroom will be cleared of spectators.

SUPERSEDEAS PROCEDURES

1. What are your procedures for supersedeas hearings?

a. Will testimony be heard?

No.

b. Is additional time generally granted to obtain medical evidence?

No unless cause is shown. Employer's evidence consisting of controlling bureau documents and evidence should be uploaded prior to the hearing. Claimant will have 14 days from the first hearing in order to submit evidence in opposition to Employer's request for supersedeas. Claimant's evidence should consist of any pertinent, recent medical records and a Fee Agreement.

c. Under what circumstances will you reconsider a supersedeas order?

Upon submission of new evidence and a WCAIS request for reconsideration.

d. Do you generally use written orders for denials?

Yes

e. What is required for employee's counsel to obtain interim fee approval?

A WCAIS request, Affidavit from Claimant or testimony and Fee Agreement.

f. Describe any other procedures for supersedeas hearings:

N/A

g. Describe procedures for special supersedeas hearings, if different:

N/A

WITNESSES/EXHIBITS

1. What are your rules regarding taking testimony?

In reference to Employer's petition, Claimant to testify by deposition and then in an update fashion at the final hearing. The parties are permitted to take fact witness testimony by deposition, but if the purpose of the testimony is to specifically refute that of Claimant and involves matters of credibility, then virtual or live is preferred. Video participation is required for all virtual hearings where testimony will be presented, including Compromise and Release hearings. Exceptions may be permitted upon request.

2. Do you require testimony at a virtual hearing, an in-person hearing, or by deposition?

This will depend on the nature of the petition. Currently, hearings remain virtual except for testimony of Claimant at final listing, which is being scheduled live. Claimant must be available and ready to testify at the scheduled time. If an interpreter is required, a WCAIS request is to be made by Claimant's counsel at the time the Notice of Hearing is received or a minimum of two weeks in advance. All testimonies are given forty minutes. A scheduled in-person event may be changed to virtual upon request made to this Judge's office.

3. Under what circumstances will you change your requirements for presentation of testimony?

Upon good cause shown.

4. If counsel wishes to present the testimony of a witness (either virtually or in-person), do you require prior notice? Yes. If yes, how much notice do you require? Thirty days or upon receipt of hearing notice.

5. What is your procedure regarding the order of expert medical testimony when cross petitions are filed?

Deposition testimony is to be presented by the moving party first, followed by the responding party. With cross petitions, the petition with the earlier assignment date dictates the moving party.

6. Do the parties need to upload the Bureau and WCOA documents as exhibits or will you admit them electronically as Judge exhibits?

I will admit them as party exhibits depending upon who uploads them.

7. Do you require counsel to upload exhibits to WCAIS before or after the hearing? If before, how far in advance of the hearing must they be uploaded?

Before. The parties should upload exhibits prior to the day of the hearing and numbered sequentially.

8. When will you rule on objections to exhibits?

At the next scheduled hearing in consideration of the positions of both parties. If it is an objection contained in a deposition transcript, I will rule on the objection in the final decision, if the same is preserved in accordance with the WCJ rules.

9. What is your procedure for handling discovery disputes?

The matter will be scheduled for a hearing on the record.

10. What is the last day to file written preservations of deposition objections?

I strictly follow the WCJ Rules regarding the preservation of objections.

COMPROMISE & RELEASES (C&Rs)

1. Describe your procedures regarding the review of C&R Agreements:

Both a fully executed, unredacted copy of the C&R and a redacted copy of the C&R needs to be uploaded to WCAIS before the hearing. Only the redacted copy will be circulated with the Order.

a. Are you willing to allow amendments of existing petitions or do you require the filing of a separate Petition Seeking Approval of a C&R Agreement?

I prefer an amendment if there are petitions in litigation that will be closed out.

b. Are parties required to provide a draft of the C&R Agreement before the hearing? If yes, how far in advance of the hearing do you need to receive it?

No draft. Final version only prior to the hearing day so that I may review it in advance.

c. Should the parties upload the signed C&R Agreement, including the fee agreement and any other attachments, before or after the hearing?

A fully executed, redacted copy of the C&R needs to be uploaded to WCAIS prior to the hearing.

d. Should child support documents be uploaded as a separate exhibit?

No. An Affidavit and child support lien search must be attached to the redacted version for this Judge's approval.

e. Should Social Security numbers and other confidential information be redacted from the C&R Agreement and Act 109 documents?

Yes, this would constitute the redacted version in WCAIS.

f. Will you sign bench orders?

Yes, if uploaded for my consideration prior to the hearing.

g. Describe any other procedures you have for C&R Agreements:

N/A

STIPULATIONS RESOLVING DISPUTES

1. What are your usual procedures regarding the submission, review, and adoption of stipulations?

Stipulations should be uploaded to WCAIS with any necessary documentation, such as the child support documents and Fee Agreement, attached as one exhibit.

2. Should the fee agreement be part of the stipulation or separate exhibit?

One exhibit

3. Should child support documents be uploaded as a separate exhibit?

No, with Stipulation as one exhibit

4. What other exhibits should be uploaded (i.e. medical bills, etc.)?

None, unless the parties feel attached documentation referred to in the Stipulation is necessary

5. Should other exhibits uploaded as be part of the stipulation or as separate exhibits?

If additional items are to be attached to the Stipulation, they should be uploaded as part of the Stipulation.

6. When should Social Security numbers and other confidential information be redacted from the stipulation and Act 109 documents?

Prior to being uploaded to WCAIS.

7. Describe any other procedures you have for stipulations:

N/A

BRIEFS AND PROPOSED FINDINGS

1. Will you close a case via WCAIS submission or is a final hearing required?

A final hearing is required.

2. What are the time requirements for final submissions and what procedures are taken when time requirements are not met?

The briefing schedule will be given on the record at the final hearing. The length of the briefing schedule depends on the nature of the issues and the volume of the evidentiary record. The responding party's brief is due within the time specified per the briefing schedule regardless of when or whether the moving party's brief has been submitted. An extension request by either party will be considered and a determination will be made and include a new briefing schedule, if granted. If the parties are discussing settlement, an extension should be filed even if negotiations fall through because otherwise, they risk the circulation of a decision. This Judge will decide the case at the end of the briefing schedule whether or not briefs are received UNLESS an extension request is filed.

3. Describe any preferences regarding the format and content of final submissions:

Preferably, a brief should contain Findings of Fact, Conclusions of Law, a proposed Order and a Memorandum of Law. Most importantly, each party must address ALL exhibits. Each exhibit must be identified and summarized

in a separate finding of fact. All depositions should be summarized, but not on a line by line basis, but only highlights in 2-3 paragraphs. An effective brief contains citations to specific pages in transcripts that support each party's argument and explains to the WCJ why a party's evidence is credible or not. A Memorandum of Law should identify any current caselaw specific to the issues identified in the litigation. Keep it succinct!

MANDATORY MEDIATIONS

1. List the offices where you conduct mandatory mediations:

Presently, mediations will be conducted remotely via videoconference.

2. What factors will you consider in deciding whether to conduct a mandatory mediation virtually or in-person?

See above.

3. What factors will you consider in deciding whether to conduct a virtual mandatory mediation by audio only or by audio with video?

This Judge has no preference as to whether I can see or simply hear the attorneys. This Judge only requires the litigants to be available to contact via phone and will mediate with attorneys only. However, if a party wishes to participate, they absolutely may do so. This Judge conducts mediations currently in Microsoft Teams.

4. Are you willing to allow counsel or a party to participate virtually in an in-person mandatory mediation? If so, under what circumstances?

N/A

5. Do you require a Mediation Statement? Yes If yes:

a. What information do you require in that Statement?

I prefer a one or two-page summary. This should contain as much of the following information as possible: Case name, submitting party, presiding judge, date of injury, accepted/alleged injury, petitions pending, average weekly wage and compensation rate, status of settlement negotiations, Claimant's age, Claimant's length of employment, medical experts, status of litigation, Claimant's pre-injury title, mechanism of injury, the amount of outstanding medical expenses, the amount of potential credits (unemployment credit, short-term disability, long-term disability), whether Claimant is receiving/applied for Social Security Disability benefits and is a Medicare beneficiary, whether there is a 3rd party case, whether any Utilization Review Requests are outstanding, whether a resignation is required, and Claimant's litigation costs. Statements should be uploaded under the Mediation tab in WCAIS.

b. What documents, if any, must accompany the Statement?

None

c. How far in advance of the mediation must the parties submit the Statement and accompanying documents?

At the latest, please be sure it is uploaded into WCAIS for this Judge's review two days before the scheduled mediation.

6. If there is a request to postpone a mandatory mediation, will it be rescheduled? If so, how long until it is rescheduled?

No, a mandatory mediation will not be rescheduled. The parties can request voluntary mediation with a Judge of their choosing.

7. Are you willing to conduct more than one mandatory mediation session per Dispute?

Yes

- 8. What is the latest day before the mediation that cancellation or postponement, absent an emergency, can be requested?**

The day prior to the mediation.

- 9. What else should the parties know or do before the mediation?**

If the Employer does not have settlement authority as of the day prior to the mediation, that should be communicated to Claimant's counsel. If a cancellation is needed, the request must be made to the ADJUDICATING JUDGE in WCAIS and that judge will decide if the matter is futile upon cause shown.

VOLUNTARY MEDIATIONS

- 1. Do you conduct Voluntary Mediations?**

Yes.

- 2. How should the parties request a Voluntary Mediation?**

All communication with this Judge must go through WCAIS. The parties should agree on three dates and timeframes and communicate all three to this Judge via correspondence in WCAIS and the Judge will schedule.

- 3. List the locations where you conduct in-person voluntary mediations:**

I am currently conducting mediations virtually, however upon request of the parties I would entertain an in-person mediation at my office.

- 4. Will you conduct virtual voluntary mediations? If yes, for which WCOA Districts will you conduct them?**

Yes. I will conduct them for any district.

- 5. Do you mediate Disputes assigned to you for hearing and decision?**

No.

- 6. Do you mediate Disputes in which one or both parties are unrepresented? If yes, describe any special procedures you have for such cases:**

Not typically.

- 7. What factors will you consider in deciding whether to conduct a voluntary mediation virtually or in-person?**

At the moment, this Judge continues to schedule mediations virtually. I would be happy to mediate live at my office upon request of the parties.

- 8. What factors will you consider in deciding whether to conduct a virtual voluntary mediation by audio only or by audio with video?**

No preference. Parties should utilize the Microsoft Teams link.

- 9. Are you willing to allow counsel or a party to participate virtually in an in-person voluntary mediation? If so, under what circumstances?**

N/A

- 10. Do you require a Mediation Statement? Yes If yes:**

- a. What information do you require in that Statement?**

See above

b. What documents, if any, must accompany the Statement?

See above

c. How far in advance of the mediation must the parties submit the Statement and accompanying documents?

See above

11. After you approve a Voluntary Mediation Request, how long until it is scheduled?

It can be the same week depending on the needs of the parties.

12. Are you willing to conduct more than one voluntary mediation session per Dispute?

Yes

13. If the party wants to request cancellation or postponement of a voluntary mediation on a Dispute assigned to you, should they contact you or the mediating Judge?

For voluntary mediations, the parties should contact the mediating judge.

14. What is the latest day before the mediation that cancellation or postponement, absent an emergency, can be requested?

The voluntary mediation can be cancelled the day prior to the mediation. However, as a courtesy, the more notice the better.

15. What else should the parties know or do before the mediation?

Employer's counsel should obtain settlement authority or have adequate assurance from his client that a settlement will be considered based upon a Judge's recommendation, prior to scheduling a voluntary mediation. If Employer's counsel does not have settlement authority for a voluntary mediation, Employer's counsel should request the matter be postponed or cancelled.

REQUESTS/MISCELLANEOUS

1. How far in advance do you require Requests for continuances, changes in hearing times, and extensions to be uploaded into WCAIS?

Continuances are not typically granted or entertained. Continuances are not to be requested because a party has not scheduled its evidence. Rather, continuances are to be used sparingly and only when a reasonable conflict prevents an attorney from participating virtually in a hearing. Requests should be in WCAIS, conform with the WCJ rules, and explain why no other attorney from the office is available to participate virtually in a hearing.

2. Under what circumstances do you conduct off the record conference calls?

I conduct conference calls upon request, but an offer of proof must be provided.

3. Under what conditions/circumstances do you accept e-mails from parties?

None. Emails are not accepted. All communication must go through WCAIS.

4. Do you adhere strictly to the duration listed for a Hearing or Mediation?

Generally yes, but if I sense that the parties need more time, I will relist or accommodate further.

5. What is the best way to contact you in an emergency situation?

Call my office. Say it is an emergency, and do not feel obliged to explain further. You can leave a message with my secretary or with the receptionist. And if you are a no show due to an emergency, you can always communicate via WCAIS when you have time after the fact.

6. What is your snow/emergency cancellation policy regarding in-person and virtual events (i.e., do you follow a specific school district closing schedule, etc.)?

For the time being, I am conducting business virtually and as such, everything will still be conducted unless the parties request cancellation due to extenuating circumstances.